

HOUSE BILL NO. 431

INTRODUCED BY B. NEWMAN

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING IT A CRIMINAL OFFENSE TO POSSESS, OR FOR A PARENT OR GUARDIAN TO ALLOW A MINOR TO POSSESS, A WEAPON ON SCHOOL GROUNDS; PROVIDING FOR EXCEPTIONS; PROVIDING THAT A PELLET GUN OR BB GUN IS A WEAPON; AND AMENDING SECTION 45-8-361, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-8-361, MCA, is amended to read:

"45-8-361. Possession or allowing possession of weapon in school building or on school grounds -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions. (1) A person commits the offense of possession of a weapon in a school building or on school grounds if the person purposely and knowingly possesses, carries, or stores a weapon in a school building or on school grounds.

(2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building or on school grounds if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building or on school grounds.

(3) (a) Subsection (1) does not apply to law enforcement personnel or to the possession, carrying, or storage of a weapon in a vehicle temporarily on school grounds for the purpose of transporting a student or other person to or from a school building or school grounds.

(b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building or on school grounds. The trustees shall adopt a policy identifying criteria for permissible possession, carrying, or storage of a weapon in a school building or on school grounds.

(4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community.

(b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful

1 owner.

2 (ii) If a weapon seized under the provisions of this section is subsequently determined to have been
3 stolen or otherwise taken from the owner's possession without permission, the weapon must be returned
4 to the lawful owner.

5 (5) As used in this section:

6 (a) "school building" means all buildings owned or leased by a local school district that are used
7 for instruction or for student activities. The term does not include a home school provided for in 20-5-109.

8 (b) "school grounds" means land and structures owned or leased by a local school district that are
9 used for instruction or for student activities, whether or not they are adjacent to one or more school
10 buildings;

11 ~~(b)~~(c) "weapon" means any type of firearm, a pellet gun or BB gun, a knife with a blade 4 or more
12 inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles.
13 The term also includes any other article or instrument possessed with the purpose to commit a criminal
14 offense."

15 - END -